

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MINNIE ROSE, LLC,

Plaintiff,

– *against* –

ANNA YU a/k/a/ ANNA YUE, ELVA
GREEN CLOTHING COMPANY LTD
a/k/a/ ELVA GREEN CLOTHING (HK)
CO., LTD., and JOHN DOES 1-10,

Defendants.

ORDER

No. 15-cv-1923 (ER)

ELVA GREEN CLOTHING (HK) CO.,
LTD., a/k/a/ ELVA GREEN
CLOTHING COMPANY LTD (“ELVA
GREEN”),

Third-Party Plaintiff,

– *against* –

LISA SHALLER GOLDBERG and JOHN
DOES 1-10,

Third-Party Defendants.

Ramos, D.J.:

At the December 7, 2023, status conference, the Court set this case for trial on June 24, 2024. Doc. 148 at 9. Martin Mushkin, counsel for Defendants, attended the conference by telephone. At that time, Mushkin indicated that he, being 92 years of age, was “not in good health,” and “may try to get somebody to try this case and to take over the case.” *Id.* The Court encouraged him to do so “now,” if he believed he would not try the case. *Id.* Mr. Mushkin responded, “[t]hat's my problem. We've got seven months for me to do that. And you've set these times, and it will be on the record, and I'll get a copy of the transcript. And we'll move forward.” *Id.* At the status conference, the Court ordered that pre-trial materials (i.e., any

motions *in limine* and proposed jury instructions, verdict sheet, and *voir dire* questions) be submitted by May 28, 2024; any responses or objections submitted by June 11, 2024; and scheduled the final Pre-trial Conference for June 20, 2024. Doc. 148 at 8.

On April 12, 2024, the Court directed Defendants to provide contact information for their new trial counsel by April 19, 2024. Doc. 146. No such information was provided. On May 7, 2024, the Court ordered Defendants to appear by new trial counsel by June 6, 2024, or risk being found in default. Doc. 150. Plaintiffs duly served Defendants with a copy of that Order on May 7, 2024. Doc. 151. No such appearance was made. On July 11, 2024, the Court ordered that Defendants show cause for default, and on July 12, 2024, The Clerk of Courts issued a Certificate of Service of Order to Show Cause. Docs. 157, 160.

At the June 20, 2024, show cause hearing, counsel for Defense did not appear nor had any notifications regarding appearances been made to the Court. At the hearing, counsel for Plaintiffs, Michael Maloney, indicated that he had spoken with Mr. Mushkin that morning and had been informed that he was now living in an assisted living facility and requests a 30-day extension of time to act.

The Defendants have now been directed to have new counsel enter an appearance on at least three separate occasions over seven months. Defendants have failed to do so. Defendants' failure has needlessly necessitated the adjournment of the trial, which was set to begin on Monday, June 24, 2024. The Court therefore directs Defendants, one final time, to have their counsel enter an appearance by Monday, July 1, 2024. Failure to do so will result in Defendants being deemed in default.

Plaintiffs are directed to serve a copy of this Order on Defendants by overnight mail return receipt requested to their last known address and by email to Ms. Yu's last known email

address, with a copy to Mr. Mushkin.

It is SO ORDERED.

Dated: June 25, 2024
New York, New York

A handwritten signature in blue ink, appearing to read 'Edgardo Ramos', is written above a horizontal line.

Edgardo Ramos, U.S.D.J.